

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

JAMES P. RYAN,)	
Plaintiff,)	
)	C.A. No. 1:21-cv-11158-NMG
vs.)	
)	
CARLO DeMARIA, JR., <i>et al.</i> ,)	
Defendants.)	
)	

**MOTION OF EVERETT DEFENDANTS TO DISMISS
PLAINTIFF'S COMPLAINT UNDER RULES 41(b), 12(b)(5) & 12(b)(6)**

The defendants, Carlo DeMaria, Jr., Michael Desmond, James Sheehan, Steven Finocchio, John Field, Ed Sobolewski, Paul Calderwood, Melissa Murphy, Jill Barringer, Colleen Mejia, Greg St. Louis, Paul Landry and Erin Deveney (hereinafter the "Everett defendants"), hereby move to dismiss plaintiff's Complaint as against them pursuant to Rules 41(b), 12(b)(5) and 12(b)(6) of the Federal Rules of Civil Procedure. This Motion is based on the following alternative grounds:

1. Plaintiff's Complaint fails to contain "a short and plain statement of the claim showing that the pleader is entitled to relief . . ." as required under Fed. R. Civ. P. 8(a).
2. Plaintiff's claims are barred by the statute of limitations.
3. Plaintiff's claims are barred by the doctrine of res judicata.
4. Plaintiff's Complaint should be dismissed due to insufficient service of process. Fed. R. Civ. P. 12(b)(5).
5. Plaintiff's Complaint fails to state claims against the Everett defendants upon which relief can be granted. Fed. R. Civ. P. 12(b)(6).

The Everett defendants hereby submit the attached Memorandum of Law in support of their Motion to Dismiss.

WHEREFORE, the Everett defendants respectfully request that this Honorable Court dismiss

plaintiff's Complaint against them under Rules 41(b), 12(b)(5) and 12(b)(6) of the Federal Rules of Civil Procedure.

The Defendants,

CARLO DeMARIA, JR., MICHAEL DESMOND, JAMES SHEEHAN, STEVEN FINOCCHIO, JOHN FIELD, ED SOBOLEWSKI, PAUL CALDERWOOD, MELISSA MURPHY, JILL BARRINGER, COLLEEN MEJIA, GREG ST. LOUIS, PAUL LANDRY and ERIN DEVENEY,

By their Attorneys,

PIERCE DAVIS & PERRITANO LLP

/s/ John J. Davis

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Dated: November 3, 2021

LOCAL RULE 7.1 CERTIFICATE

I hereby certify that, on November 2, 2021, I attempted to confer with the plaintiff, James P. Ryan, by telephone in an effort to resolve or narrow the issues regarding this request. On November 2, 2021 and November 3, 2021, Mr. Ryan and I also exchanged text messages.

/s/ John J. Davis

John J. Davis, Esq.

CERTIFICATE OF SERVICE

I hereby certify that the foregoing, filed through the Electronic Case Filing System, will be sent electronically to the registered participants as identified on the Notice of Electronic Filing and that a paper copy shall be served upon those indicated as non-registered participants on November 3, 2021.

/s/ John J. Davis

John J. Davis, Esq.